

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD P. TARQUINI

Appeal 2006-2673
Application 10/004,192
Technology Center 2100

Decided: April 10, 2007

Before JOSEPH F. RUGGIERO, LANCE LEONARD BARRY, and
MAHSHID D. SAADAT, *Administrative Patent Judges*.

RUGGIERO, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from the Final Rejection of claims 1-20. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse and enter a new rejection pursuant to 37 C.F.R.
§ 41.50(b).

STATEMENT OF CASE

Appellant's invention relates to Uniform Resource Locator (URL) filtering in which a plurality of URLs are stored in a lexical search tree data structure.

Claim 1 is illustrative of the claimed subject matter and reads as follows:

1. A method for Uniform resource Locator (URL) filtering, comprising:
receiving an event notification upon the occurrence of an event associated with a received URL;
searching, in response to said event notification, a lexical search tree data structure storing a plurality of URLs for said received URL; and
processing said received URL in response to said received URL not matching any of said plurality of URLs stored in said lexical search tree data structure.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Humes	US 5,996,011	Nov. 30, 1999
Meyerzon	US 6,631,369 B1	Oct. 7, 2003 (filed Jun. 30, 1999)

Claims 1, 10, and 11 stand finally rejected under 35 U.S.C. § 102(e) as being anticipated by Humes. Claims 2-9 and 12-20 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Humes in view of Meyerzon.

Rather than reiterate the arguments of Appellant and the Examiner, reference is made to the Briefs¹ and Answer for their respective details.

Only those arguments actually made by Appellant have been considered in this decision. Arguments which Appellant could have made but chose not to make in the Briefs have not been considered (37 C.F.R. § 41.37(c)(1)(vii)).

ISSUES

- (1) Under 35 U.S.C § 102(e), with respect to appealed claims 1, 10, and 11, does Humes have a disclosure which anticipates the claimed invention? Specifically, does Humes disclose searching through a lexical search tree data structure for stored URLs which match a received URL?
- (2) Under 35 U.S.C § 103(a), with respect to appealed claims 2-9 and 12-20, has the Examiner established a prima facie case of obviousness based on the combination of Humes and Meyerzon?

FINDINGS OF FACT

Appellant has invented a method and system for Uniform Resource Locator (URL) filtering in which a plurality of URLs are stored in a lexical search tree data structure. Upon notification of the occurrence of an event associated with a received URL, the lexical search tree data structure is searched for a match for the received URL. If there is no match for the

¹ The Appeal Brief was filed October 28, 2005. In response to the Examiner's Answer mailed January 17, 2006, a Reply Brief was filed March 14, 2006 which was acknowledged and entered by the Examiner as indicated in the communication mailed May 31, 2006.

received URL in the searched data structure, the received URL is processed (Specification 2).

Humes discloses a system and method for filtering objectionable subject matter from World Wide Web pages received by a computer system connected to the Internet. A requested URL of a web page is compared to an “allow list” or a “deny list” of URLs of web pages to, respectively, permit or forbid access to the requested web page (col. 3, ll. 9-21).

Meyerzon discloses a Web “crawler” which establishes a searchable index of documents by creating a history table, in a store which supports a folder hierarchy, the table having a list of URLs found for each document and folder found in the crawl. (Abs. ll. 1-14). A hash value (col. 4, ll. 59-62) along with the contents of the document and time stamp information is also stored in the index. When a new document is received, the history table is searched to determine if the hyperlink URLs in the document are listed within the history table and, if not, the URLs are added to the list in the history table (col. 9, ll. 45-56).

PRINCIPLES OF LAW

1. ANTICIPATION

It is axiomatic that anticipation of a claim under § 102 can be found if the prior art reference discloses every element of the claim. *See In re King*, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986) and *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984).

In rejecting claims under 35 U.S.C. § 102, a single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation. *Perricone v. Medicis Pharmaceutical*

Corp., 432 F.3d 1368, 1375-76, 77 USPQ2d 1321, 1325-26 (Fed. Cir. 2005), citing *Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565, 24 USPQ2d 1321, 1326 (Fed. Cir. 1992). Anticipation of a patent claim requires a finding that the claim at issue “reads on” a prior art reference. *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1346, 51 USPQ2d 1943, 1945 (Fed Cir. 1999) (“In other words, if granting patent protection on the disputed claim would allow the patentee to exclude the public from practicing the prior art, then that claim is anticipated, regardless of whether it also covers subject matter not in the prior art.”) (internal citations omitted).

2. OBVIOUSNESS

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). *See also In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellant. *Oetiker*, 977 F.2d at 1445, 24 USPQ2d at 1444. *See also Piasecki*, 745 F.2d at 1472, 223 USPQ at 788. Thus, the Examiner must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the Examiner’s conclusion.

ANALYSIS

35 U.S.C. § 102(e) REJECTION

With respect to the Examiner's 35 U.S.C. § 102(e) rejection of independent claims 1 and 10 based on the Humes reference, Appellant's arguments in response assert that the Examiner has not shown how each of the claimed features is present in the disclosure of Humes so as to establish a case of anticipation. Appellant's arguments (Br. 6-7; Reply Br. 4-5) focus on the contention that, in contrast to the claimed invention, Humes lacks a disclosure of searching through a "search tree data structure" for a comparison of a received web page URL with stored web page URLs.

We agree with Appellant that Humes simply has no disclosure of a tree-type data structure which is searched for a web page URL comparison. While Humes discloses (col. 3, ll. 45-67) the comparison of each word in a received web page with a dictionary of stored words, there is no indication from the description in Humes that such dictionary of stored words is arranged in any manner of hierarchical format that would be required to satisfy the claimed "tree" data structure.

In view of the above discussion, since all of the claim limitations are not present in the disclosure of Humes, we do not sustain the Examiner's 35 U.S.C. § 102(e) rejection of independent claims 1 and 10, nor of claim 11 dependent thereon.

35 U.S.C § 103(a) REJECTION

With respect to the Examiner's obviousness rejection of claims 2-9 and 12-20 based on the combination of Humes and Meyerzon, Appellant's arguments in response assert a failure to set forth a prima facie case of obviousness since all of the claim limitations are not taught or suggested by the Humes and Meyerzon references. In particular, Appellant contend (Br. 7-9; Reply Br. 6) that Meyerzon does not overcome the deficiencies of Humes in disclosing the searching of a tree structure as set forth in detail in dependent claims 2 and 12 and independent claim 17.

Initially, we find that, as alluded to by the Examiner (Answer 11-12), the folders and documents in the history table 400-2 of Meyerzon are in fact arranged in a hierarchical tree format. This is verified by the illustration in Meyerzon's Figure 3 as well as the description at column 8, lines 45-67 and at line 13 of the Abstract of Meyerzon.

We do agree with Appellant, however, that Meyerzon does not provide a disclosure of the traversing of the tree data structure as set forth in claims 2, 12, and 17. In particular, we find no teaching or suggestion in Meyerzon of the identification of a branch associated with a root node of search tree which corresponds to a determined hash value for a received URL followed by the traversing of only that branch in search for a match for a received URL as claimed.

Accordingly, since we are of the opinion that, even if combined, the proposed combination of the Humes and Meyerzon references set forth by the Examiner does not support the obviousness rejection, we do not sustain

the rejection of claims 2, 12, and 17, nor their dependent claims 3-9, 13-16, and 18-20.

REJECTION UNDER 37 CFR § 41.50(b)

We make the following new ground of rejection using our authority under 37 CFR § 41.50(b). Claims 1 and 10 are rejected under 35 U.S.C. § 102(e) as being anticipated by Meyerzon. Meyerzon discloses the filtering of web page URLs in response to an event notification associated with a received URL. As discussed at column 9, lines 45-67 of Meyerzon, the history table 400-2 is searched for a match with a received web page URL. If no match is found, the received URL is further processed by adding it to the history table. In making this rejection, we refer to our earlier discussion of Meyerzon which concluded that there is sufficient support in Meyerzon for the conclusion that the folders and documents in the history table are arranged in a hierarchical tree format.

We further note that, although the Meyerzon reference has been applied only against independent claims 1 and 10, this is not to be taken as an indication of the patentability of the other claims on appeal. In any resumption of the prosecution of this application before the Examiner, the Examiner should consider the applicability of the applied prior art as well as the other prior art of record and any other discovered prior art, to all of the appealed claims 1-20.

CONCLUSION

In view of the foregoing, we reverse the Examiner's 35 U.S.C. § 102(e) rejection of claims 1, 10, and 11, as well as the 35 U.S.C. § 103(a) rejection of claims 2-9 and 12-20. A new rejection of claims 1 and 10 under 35 U.S.C. § 102(e) is entered pursuant to 37 C.F.R. § 41.50(b).

37 C.F.R. § 41.50(b) provides A[a] new ground of rejection pursuant to this paragraph shall not be considered final for judicial review.

37 C.F.R. § 41.50(b) also provides that the Appellant, WITHIN TWO MONTHS FROM THE DATE OF THE DECISION, must exercise one of the following two options with respect to the new ground of rejection to avoid termination of the appeal as to the rejected claims:

(1) Reopen prosecution. Submit an appropriate amendment of the claims so rejected or new evidence relating to the claims so rejected, or both, and have the matter reconsidered by the examiner, in which event the proceeding will be remanded to the examiner....

(2) Request rehearing. Request that the proceeding be reheard under § 41.52 by the Board upon the same record....

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

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REVERSED
37 C.F.R. § 41.50(b)

ELD

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